

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6518**

**BILL NUMBER:** HB 1307

**NOTE PREPARED:** Apr 10, 2013

**BILL AMENDED:** Apr 9, 2013

**SUBJECT:** Extraterritorial Utility Rates And Charges.

**FIRST AUTHOR:** Rep. Braun

**FIRST SPONSOR:** Sen. Merritt

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill provides that a municipality or a municipally owned utility may not purchase the property of a utility company that provides water or sewer service (including a regional sewer and water district) unless the Indiana Utility Regulatory Commission (IURC): (1) finds that the utility company has continued violations of the IURC's orders or the law regulating the utility company after the IURC has ordered compliance; or (2) finds after a review that the utility company has severe deficiencies that the utility company has failed to remedy. It provides that a utility may petition a court to stay proceedings of a municipality or a municipally owned utility to acquire the utility.

The bill establishes a procedure for extraterritorial customers of certain utilities to petition the IURC for review of rates and charges.

**Effective Date:** Upon Passage; July 1, 2013.

**Explanation of State Expenditures:** *IURC Funding:* The IURC may experience increased administrative costs as a result of the provisions of the bill. The IURC's current level of resources should be sufficient to implement this change.

**Background:** The operating budget of the IURC is funded by the regulated utilities operating in Indiana through the Public Utility Fee. The Public Utility Fee is based on a percentage of the gross intrastate operating revenues of a public utility. The fee percentage is derived from the agency's budget, less revisions, divided by the total amount of gross intrastate operating revenue received by the regulated utilities in the previous year. The current rate is approximately 0.12%. The revenue collected through the Public Utility Fee is deposited in the Public Utility Fund. As of December 17, 2012, the IURC has six vacant positions, the majority of which are clerical

positions.

**Explanation of State Revenues:** *Revisions of Rates and Charges:* To the extent that petitions for revisions of rates and charges are approved by the IURC, there could be a change in sales tax revenues. The impact is indeterminable. Sales tax revenue are deposited in state General Fund (99.848%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

*Court Fee Revenue:* The bill provides that a utility may petition a court to stay proceedings of a municipal utility to acquire the utility. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Revisions of Rates and Charges:* Municipalities may need to review and seek revision of water and wastewater utility rates and charges.

The bill provides that if a municipal legislative body adopts an ordinance imposing rates and charges on owners of properties located outside the corporate boundaries of the municipality that is more than 150% of the rate charged to property owners within the municipality, then the extraterritorial customers could petition the IURC for review of the rates and charges. It provides that such petitions for review of rates and charges must apply to rates and charges established in an ordinance that is in effect on March 31, 2012. It specifies that the petition procedure is not available to customers of a utility that have already petitioned the IURC for review and approval of extraterritorial rates and charges.

The provisions in the bill apply to a municipally owned: (1) water utility; (2) wastewater utility; or (3) combined water and wastewater utility; that is not under the jurisdiction of the IURC for the approval of rates and charges. It provides that, no later than, December 31, 2013, either or both of the following may petition the IURC: (1) The municipality (2) The lesser of (A) 10% of all; or (B) 25 extraterritorial customers. It provides for prerequisites before the petitions are filed. It provides that the rates and charges established in an ordinance remain in effect until the IURC makes any decision on the petition.

*Court Fee Revenue:* The bill provides that a utility may petition a court to stay proceedings of a municipal utility to acquire the utility. If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the

particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds. The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

**State Agencies Affected:** IURC.

**Local Agencies Affected:** Municipalities.

**Information Sources:**

**Fiscal Analyst:** Randhir Jha, 317-232-9556.